* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN . 393/2007

Date of Decision : April 16, 2007

SURINDER SOOD … PETITIONER
Through: Mr. Vinaya Bhasin, Sr. Advocate
With Mr. Pradeep K. Mittal, Praveen K. Mittal
&
Mr. Gautam K. Laha, Advocates,

Vs.

STATE … RESPONDENT
Through: Mr. Pawan Sharma, Advocate for the State.
Mr. Sandeep Sethi, Sr. Advocate with Mr. Pradeep Rana, Advocate for the complainant.

CORAM:

Mr.Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? Yes

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

MR. JUSTICE S. RAVINDRA BHAT(Open Court)

1. The applicant is accused of having committed offences punishable under Sections 420 and 468 IPC. He seeks anticipatory bail.

2. The brief facts necessary to decide this application are that one Rajinder Singh (herein after referred to as the "Complainant") allegedly confided in his morning walk friend Ram Kumar Pawar about his desire to invest in business. He was

informed that the business of human hair was profitable, particularly in export to European Countries. The complainant, lured by Mr. Pawar expressed his inability to invest the sum required for the business. The complainant as alleged was introduced to the Petitioner who along with Mr. Pawar allegedly convinced him to invest sizeable amounts in human hair business to get good returns. The complainant upon the assurance given secured bank loans against property.

3. The complainant further alleged that the venture did not yield the expected profits; the consignment was cancelled on account bad quality of hair. The complainant was not getting profits or the money invested in the business back. He lodged an FIR with the police on 9.8.2006

4. The Petitioner states that he and his family members have joined investigations and the complainant has to be blamed for being careless in purchasing and despatching inferior quality hair; without bills of purchase and invoices from Calcutta or notice of demand and thereby making the export impossible, the human hair was lying un exported. The Petitioner further states that in order to pressurize him for compromise, the complainant lodged a false FIR.

5. Learned senior counsel, Mr. K.K.Sud, urged that the Complainant did not approach the petitioner to settle the accounts and disputes regarding quality and purchase price. It was submitted that the complainant neither demanded payment nor sent any invoices, delivery challans etc., and that the complainant failed to lift the inferior stock sent through Railway receipts, which were purchased by him in Calcutta. It was contended that the Complainant was paid Rs. 7,50,000/-. He

further submitted that the Railway Receipts had not mentioned the value of goods and most of the receipts were endorsed with 'Value not declared'.

6. Counsel further submitted that the petitioner insisted the complainant to provide him with the bills and invoices to settle the issues of payment but the latter said that he did not possess the documents; yet he made payment of the sum of Rs. 6,50,000/- by issuing cheques on several occasions in 2005-2006 and these payments are credited to the Complainant's firm. It was contended that the complainant paid the sum of Rs.61.20 lakhs to Mr. Pawar and not at his instance.

7. The learned senior counsel for the Petitioner Mr. K.K.Sood has argued that the Petitioner is a senior citizen and is also suffering. The learned counsel has urged that the complainant has paid the entire amount to Mr. Pawar, and that they both knew each other. The Petitioner had no role in introducing them and therefore could not have induced the complainant to part with money. It was the Complainants decision to take a plunge in business so the Petitioner's intention to cheat at the very inception cannot be established.

8. The learned counsel for the State submitted that the petitioner allegedly cheated one Dilawar Singh in the business of Human hair, adopting a similar modus operandi. He stated that a complaint was received on 19.2.2007 at Police Station Sultanpuri, though no first information report has yet been lodged.

9. I have considered the submissions of the parties, and gone through the materials. According to the allegations levelled, the Complainant, desirous of investing in some profitable venture, was lured at the instance of the petitioner, to expend

monies in the human hair export business. Though substantial amounts were spent, the purchasers did not pay up, and the co-accused Pawar and the petitioner convinced him that money had been received from the foreign buyer, but credited in a wrong account. They again allegedly induced him to pay huge amounts after borrowing from the Bank. In the status reports filed, it was also stated that carbon copies of invoices were collected from the New Delhi Railway Station, allegedly bearing the signatures of the complainant, which upon expert opinion, were not his, but forgeries.

10. It is settled law that grant of anticipatory bail is dependant on sound exercise of jurisdiction by the Court. While liberty of a citizen is a valuable right, equally public interest in an unimpeded investigation into serious offences cannot be undermined. Having considered the submission of parties, at this stage, it cannot be said that the application's role is so completely unclouded or blemishless, as to restrict the prosecutions choice of custodial interrogation. In these circumstances, the petitioner, in my opinion, cannot be enlarged on bail under Section 438.

11. The above discussion does not preclude the petitioner upon applying for regular bail; in such case, his request shall be considered independently, uninfluenced by the above observations. Subject to this, the application is dismissed.

(S. RAVINDRA BHAT)
JUDGE

APRIL 16th, 2007